

Executive Summary – Enforcement Matter – Case No. 49884

City of Follett

RN101409514

Docket No. 2015-0025-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

PWS

Small Business:

No

Location(s) Where Violation(s) Occurred:

Follett Municipal Water System, 329 South Main Street, Follett, Lipscomb County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: May 15, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$1,202

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$1,202

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unsatisfactory

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and April 2014

Executive Summary – Enforcement Matter – Case No. 49884
City of Follett
RN101409514
Docket No. 2015-0025-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: December 1, 2014

Date(s) of NOE(s): December 12, 2014

Violation Information

1. Failed to collect five routine distribution coliform samples the month following a total coliform-positive sample result [30 TEX. ADMIN. CODE § 290.109(c)(2)F) and TEX. HEALTH & SAFETY Code § 341.033(d)].
2. Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director ("ED") by the tenth day of the month following the end of the monitoring period [30 TEX. ADMIN. CODE § 290.117(c)(2)(C) and (i)(1)].
3. Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data [30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c)].
4. Failed to provide public notification and submit a copy of the public notification to the ED regarding the failure to submit Disinfectant Level Quarterly Operating Reports ("DLQORs") [30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f)].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require the Respondent to:

a. Within 30 days:

- i. Begin complying with applicable coliform monitoring requirements by collecting increased distribution coliform samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting;

Executive Summary – Enforcement Matter – Case No. 49884
City of Follett
RN101409514
Docket No. 2015-0025-PWS-E

ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper samples are collected, analyzed by a TCEQ approved laboratory, and the results reported to the ED within ten days following the end of each monitoring period;

iii. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2014 or the current year to each bill paying customer and make good faith effort to deliver the CCR to non-bill paying customers; and

iv. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the ED, including but not limited to providing public notification regarding the failure to submit DLQORs.

b. Within 45 days:

i. Submit written certification to demonstrate compliance with Ordering Provisions a.ii. through a.iv.; and

ii. Submit to the Commission a copy of the CCRs provided to customers of the Facility and the certification that the CCRs have been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data.

c. Within 60 days, submit written certification to demonstrate compliance with Ordering Provision b.ii.

d. Within 90 days, begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the ED within ten days of the month following the end of the monitoring period. This provision will be satisfied upon one compliant monitoring period.

e. Within 225 days, submit written certification to demonstrate compliance with Ordering Provision a.i.

f. Within 470 days, submit written certification to demonstrate compliance with Ordering Provision d.

Executive Summary – Enforcement Matter – Case No. 49884

City of Follett

RN101409514

Docket No. 2015-0025-PWS-E

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jim Fisher, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-2537; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: N/A

Respondent: Robert Williamson, City Manager, City of Follett, P.O. Box 216, Follett, Texas 79304
The Honorable Kevin Wynn, Mayor, City of Follett, P.O. Box 216, Follett, Texas 79304

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	15-Dec-2014	Screening	6-Jan-2015	EPA Due	31-Mar-2015
	PCW	8-Jan-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Follett		
Reg. Ent. Ref. No.	RN101409514		
Facility/Site Region	1-Amarillo	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	49884	No. of Violations	1
Docket No.	2015-0025-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jim Fisher
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$100**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **85.0%** Enhancement **Subtotals 2, 3, & 7** **\$85**

Notes: Enhancement for five NOV's with the same/similar violations, two agreed orders without a denial of liability and an unsatisfactory performer classification.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$30
Estimated Cost of Compliance \$125
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$185**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$185**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$185**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$185**

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 2 (September 2002)

Case ID No. 49884

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 75%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for five NOVs with the same/similar violations, two agreed orders without a denial of liability and an unsatisfactory performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 85%

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 2 (September 2002)

Case ID No. 49884

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit a Disinfectant Level Quarterly Operating Report for the first quarter of 2011. Specifically, the public notification was due by July 10, 2011 and was not provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 1

90 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$100

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$30

Violation Final Penalty Total \$185

This violation Final Assessed Penalty (adjusted for limits) \$185

Economic Benefit Worksheet

Respondent City of Follett
Case ID No. 49884
Reg. Ent. Reference No. RN101409514
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	1-Dec-2014	31-Jul-2015	0.66	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The training/sampling delayed cost includes the estimated amount to implement procedures to ensure that all public notifications are provided, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	11-Apr-2011	10-Jul-2011	1.16	\$1	\$25	\$26
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to provide public notification (\$25 per notification x one notification), calculated for the period when public notification was required.

Approx. Cost of Compliance

\$125

TOTAL

\$30



Penalty Calculation Worksheet (PCW)

Policy Revision 4 (April 2014)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	15-Dec-2014	Screening	6-Jan-2015	EPA Due	31-Mar-2015
	PCW	8-Jan-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	City of Follett
Reg. Ent. Ref. No.	RN101409514
Facility/Site Region	1-Amarillo
Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	49884	No. of Violations	4
Docket No.	2015-0025-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jim Fisher
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$550**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **85.0%** Enhancement **Subtotals 2, 3, & 7** **\$467**

Notes: Enhancement for five NOV's with the same/similar violations, two agreed orders without a denial of liability and an unsatisfactory performer classification.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$0**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$603
Estimated Cost of Compliance \$650
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$1,017**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$1,017**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$1,017**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$1,017**

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 4 (April 2014)

Case ID No. 49884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	5	25%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	2	50%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 75%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unsatisfactory Performer

Adjustment Percentage (Subtotal 7) 10%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for five NOVs with the same/similar violations, two agreed orders without a denial of liability and an unsatisfactory performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 85%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 85%

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 4 (April 2014)

Case ID No. 49884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 290.109(c)(2)(F) and Tex. Health & Safety Code § 341.033(d)

Violation Description

Failed to collect five routine distribution coliform samples the month following a total coliform-positive sample result for the month of September 2014.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to conduct increased coliform sampling could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

30 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$150

One monthly event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$125

Violation Final Penalty Total \$278

This violation Final Assessed Penalty (adjusted for limits) \$278

Economic Benefit Worksheet

Respondent City of Follett
Case ID No. 49884
Reg. Ent. Reference No. RN101409514
Media Public Water Supply
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$125	1-Sep-2014	30-Sep-2014	0.00	\$0	\$125	\$125
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided cost includes the estimated amount to collect five routine distribution coliform samples (\$25 per sample x five missed samples), calculated for the month sampling was not conducted.

Approx. Cost of Compliance

\$125

TOTAL

\$125

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 4 (April 2014)

Case ID No. 49884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.117(c)(2)(C) and (i)(1)

Violation Description

Failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period for the January 1, 2012 through December 31, 2014 monitoring period.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 15.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Failure to collect lead and copper samples could expose customers of the Facility to undetected contaminants which would exceed levels protective of human health.

Adjustment \$850

\$150

Violation Events

Number of Violation Events 1

1095 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$150

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$150

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$183

Violation Final Penalty Total \$278

This violation Final Assessed Penalty (adjusted for limits) \$278

Economic Benefit Worksheet

Respondent City of Follett
Case ID No. 49884
Reg. Ent. Reference No. RN101409514
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
------------------	-----------	---------------	------------	-----	----------------	---------------	-----------

No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$100	1-Dec-2014	31-Jul-2015	0.66	\$3	n/a	\$3
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to implement improvements to the Facility's process procedures, guidance, training and/or oversight to ensure that future lead and copper samples are collected, analyzed and the results are released by the Facility's laboratories and reported to the Executive Director, calculated from the date of the record review to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Jan-2012	31-Dec-2014	3.92	\$29	\$150	\$179
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The avoided costs include the estimated amount to collect and have analyzed the required lead and copper samples (\$30 per sample x five required samples), calculated for the time frame sampling was required.

Approx. Cost of Compliance

\$250

TOTAL

\$183

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 4 (April 2014)

Case ID No. 49884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code §§ 290.271(b) and 290.274(a) and (c)

Violation Description

Failed to mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for the year 2013.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 1

364 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$50

One single event is recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$50

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$188

Violation Final Penalty Total \$93

This violation Final Assessed Penalty (adjusted for limits) \$93

Economic Benefit Worksheet

Respondent City of Follett
Case ID No. 49884
Reg. Ent. Reference No. RN101409514
Media Public Water Supply
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Overtime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$175	1-Jul-2014	6-Jan-2015	1.44	\$13	\$175	\$188
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

The one-time avoided cost includes the estimated amount to prepare and mail or directly deliver the 2013 CCR to the customers of the Facility and to the TCEQ ([$\$0.50 \times 249$ connections] + $\$50 \times$ one year), calculated from the date the 2013 CCR was due to the screening date.

Approx. Cost of Compliance \$175

TOTAL \$188

Screening Date 6-Jan-2015

Docket No. 2015-0025-PWS-E

PCW

Respondent City of Follett

Policy Revision 4 (April 2014)

Case ID No. 49884

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN101409514

Media [Statute] Public Water Supply

Enf. Coordinator Jim Fisher

Violation Number 4

Rule Cite(s)

30 Tex. Admin. Code § 290.122(c)(2)(A) and (f)

Violation Description

Failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit Disinfectant Level Operating Reports for the second quarter of 2011 and the third quarter of 2013 through the first quarter of 2014. Specifically, the public notifications were due by October 10, 2011, January 10, 2014, April 10, 2014 and July 10, 2014 and were not provided.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor
	x		

Percent 5.0%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$950

\$50

Violation Events

Number of Violation Events 4

366 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$200

Four single events are recommended.

Good Faith Efforts to Comply

0.0%

Reduction \$0

Extraordinary

Before NOE/NOV NOE/NOV to EDPRP/Settlement Offer

Ordinary

N/A

Notes

x (mark with x)

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$200

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$108

Violation Final Penalty Total \$370

This violation Final Assessed Penalty (adjusted for limits) \$370

Economic Benefit Worksheet

Respondent City of Follett
Case ID No. 49884
Reg. Ent. Reference No. RN101409514
Media Public Water Supply
Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The training cost to ensure that all public notifications are provided is captured in the economic benefit worksheet for Violation No. 1 of the Revision 2 PCW.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	11-Jul-2011	10-Oct-2011	1.17	\$1	\$25	\$26
Other (as needed)	\$75	11-Oct-2013	10-Jul-2014	1.66	\$6	\$75	\$81

Notes for AVOIDED costs

The avoided costs include the estimated amount to provide public notification (\$25 per notification x four notifications), calculated for the periods when public notifications were required.

Approx. Cost of Compliance

\$100

TOTAL

\$108



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN600737811, RN101409514, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent: CN600737811, CITY OF FOLLETT
Regulated Entity: RN101409514, FOLLETT MUNICIPAL WATER SYSTEM
Complexity Points: N/A
CH Group: 14 - OTHER
Location: 329 SOUTH MAIN STREET IN FOLLETT, LIPSCOMB COUNTY, TEXAS
TCEQ Region: REGION 01 - AMARILLO
ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 1480003 WATER LICENSING LICENSE 1480003
Compliance History Period: September 01, 2009 to August 31, 2014
Rating Year: 2014
Rating Date: 09/01/2014
Date Compliance History Report Prepared: January 06, 2015
Agency Decision Requiring Compliance History: Enforcement
Component Period Selected: December 15, 2009 to December 15, 2014
TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.
Name: Jim Fisher **Phone:** (512) 239-2537

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

- 1 Effective Date: 10/27/2012 ADMINORDER 2012-0172-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: Failed to timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter.
Classification: Moderate
Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)
Description: Failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the Executive Director by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data
- 2 Effective Date: 09/19/2014 ADMINORDER 2013-1880-PWS-E (Findings Order-Agreed Order Without Denial)
Classification: Major
Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Rqmt Prov: OP Nos. 2.a.i, 2.b, 2.c, 2.d, and 2.e ORDER

Description: Failure to submit a Disinfectant Level Quarterly Operating Report ("DLQOR") to the Executive Director each quarter by the tenth day of the month following the end of each quarter. Specifically, the Respondent failed to submit DLQORs from the fourth quarter of 2009 through the second quarter of 2011.
Failure to comply with Agreed Order Docket No. 2012-0172-PWS-E.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 4Q2012 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 4th quarter of 2012 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 1Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 1st quarter of 2013 within the required timeline.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)

30 TAC Chapter 290, SubChapter F 290.110(f)(3)

Description: DLQOR MR 2Q2013 - The system failed to monitor and/or report distribution disinfectant residuals to the TCEQ for the 2nd quarter of 2013 within the required timeline.

B. Criminal convictions: N/A

C. Chronic excessive emissions events: N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1	April 07, 2010	(796657)
Item 2	October 05, 2011	(951887)
Item 3	December 16, 2013	(1134073)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

1	Date:	09/12/2014 (1211998)	CN600737811
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	DLQOR MR PN 4Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 4th quarter of 2013.	
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	DLQOR MR PN 3Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 3rd quarter of 2013.	
2	Date:	10/13/2014 (1211998)	CN600737811
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A) 30 TAC Chapter 290, SubChapter F 290.122(f)	
	Description:	DLQOR MR PN 1Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 1st quarter of 2014.	
3	Date:	10/16/2014 (1211998)	CN600737811
	Self Report?	NO	Classification: Moderate
	Citation:	30 TAC Chapter 290, SubChapter H 290.271(b) 30 TAC Chapter 290, SubChapter H 290.274(a)	

Description: CCR 2013 - The system failed to provide the Consumer Confidence Report (CCR) for 2013 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

4 Date: 11/10/2014 (1211998) CN600737811
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)
 30 TAC Chapter 290, SubChapter F 290.117(i)(1)
 Description: LCR RD MR 3Y2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2012 to 12/31/2014 within the required timeline.

5 Date: 11/18/2014 (1211998) CN600737811
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 30 TAC Chapter 290, SubChapter F 290.109(f)(5)
 30 TAC Chapter 290, SubChapter F 290.109(f)(7)
 Description: TCR Routine MR Violation 09/2014 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

F. Environmental audits: N/A
G. Type of environmental management systems (EMSs): N/A
H. Voluntary on-site compliance assessment dates: N/A
I. Participation in a voluntary pollution reduction program: N/A
J. Early compliance: N/A
Sites Outside of Texas: N/A

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the first quarter of 2011.

7 Date: 10/18/2011 (970851) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: Failed to timely submit a DLQOR to the Executive Director each quarter by the tenth day of the month following the end of each quarter.

8 Date: 10/18/2011 (970895) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.110(e)(4)(A)
30 TAC Chapter 290, SubChapter F 290.110(f)(2)
30 TAC Chapter 290, SubChapter F 290.110(f)(3)
Description: This system failed to monitor and/or failed to report distribution disinfectant residuals to the TCEQ for the second quarter of 2010.

9 Date: 12/14/2012 (1211998) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 2Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 2nd quarter of 2011.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 1Q2011 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 1st quarter of 2011.

10 Date: 09/12/2014 (1211998) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 4Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 4th quarter of 2013.

Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 3Q2013 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 3rd quarter of 2013.

11 Date: 10/13/2014 (1211998) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
30 TAC Chapter 290, SubChapter F 290.122(f)
Description: DLQOR MR PN 1Q2014 Posting and Reporting Violation - Failure to submit a signed certificate of delivery to the Executive Director certifying that public notice was issued pursuant to 30 Tex. Admin. Code §290.122 during the time period that public notice was required for a disinfectant monitoring and reporting violation during the 1st quarter of 2014.

12 Date: 10/16/2014 (1211998) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter H 290.271(b)
30 TAC Chapter 290, SubChapter H 290.274(a)
30 TAC Chapter 290, SubChapter H 290.274(c)
Description: CCR 2013 - The system failed to provide the Consumer Confidence Report (CCR) for 2013 to its bill-paying customers and/or the TCEQ by July 1st of the following year.

13 Date: 11/10/2014 (1211998) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.117(c)(2)(C)
30 TAC Chapter 290, SubChapter F 290.117(i)(1)
Description: LCR RD MR 3Y2014 - The system failed to monitor and/or report distribution lead and copper levels to the TCEQ for the triennial reduced monitoring period from 01/01/2012 to 12/31/2014 within the required timeline.

14 Date: 11/18/2014 (1211998) CN600737811
Classification: Moderate

Self Report? NO **For Informational Purposes Only**

Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
30 TAC Chapter 290, SubChapter F 290.109(f)(5)
30 TAC Chapter 290, SubChapter F 290.109(f)(7)
Description: TCR Routine MR Violation 09/2014 - Failure to collect and/or submit any routine monitoring sample(s) within the required timeline.

* NOVs applicable for the Compliance History rating period 9/1/2009 to 8/31/2014

Appendix B

All Investigations Conducted During Component Period December 15, 2009 and December 15, 2014

Item 1*	April 07, 2010**	(796657) For Informational Purposes Only
Item 2	December 22, 2010**	(970913) For Informational Purposes Only
Item 3*	October 05, 2011**	(951887) For Informational Purposes Only
Item 4	October 18, 2011**	(970851) For Informational Purposes Only
Item 5	December 08, 2011**	(970909) For Informational Purposes Only
Item 6	December 22, 2011**	(974255) For Informational Purposes Only
Item 7	September 26, 2013**	(1114573) For Informational Purposes Only
Item 8*	December 16, 2013**	(1134073) For Informational Purposes Only
Item 9	December 09, 2014	(1211998) For Informational Purposes Only
Item 10	December 12, 2014	(1212099) For Informational Purposes Only

* No violations documented during this investigation

**Investigation applicable for the Compliance History Rating period between 09/01/2009 and 08/31/2014.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CITY OF FOLLETT
RN101409514**

**§
§
§
§
§**

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-0025-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Follett (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply located at 329 South Main Street in Follett, Lipscomb County, Texas (the "Facility") that has approximately 249 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted from December 1, 2014 through December 12, 2014, TCEQ staff documented that the Respondent did not collect five routine distribution coliform samples the month following a total coliform-positive result for the month of September 2014.
3. During a record review conducted from December 1, 2014 through December 12, 2014, TCEQ staff documented that the Respondent did not collect lead and copper tap samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period for the January 1, 2012 through December 31, 2014 monitoring period.
4. During a record review conducted from December 1, 2014 through December 12, 2014, TCEQ staff documented that the Respondent did not mail or directly deliver one copy of the Consumer Confidence Report ("CCR") to each bill paying customer by July 1 of each year and did not submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data for the year 2013.
5. During a record review conducted from December 1, 2014 through December 12, 2014, TCEQ staff documented that public notifications were due by July 10, 2011, October 10, 2011, January 10, 2014, April 10, 2014 and July 10, 2014 and the Respondent did not provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit Disinfectant Level Quarterly Operating Reports ("DLQORs") for the first and second quarters of 2011 and the third quarter of 2013 through the first quarter of 2014.
6. The Respondent received notice of the violations on December 16, 2014.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect five routine distribution coliform samples the month following a total coliform-positive sample result, in violation of 30 TEX. ADMIN. CODE § 290.109(c)(2)F) and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect lead and copper tap samples at the required five sample sites, have the samples analyzed at a TCEQ approved laboratory, and submit the results to the Executive Director by the tenth day of the month following the end of the monitoring period, in violation of 30 TEX. ADMIN. CODE § 290.117(c)(2)(C) and (i)(1).

4. As evidenced by Findings of Fact No. 4, the Respondent failed to mail or directly deliver one copy of the CCR to each bill paying customer by July 1 of each year and failed to submit to the TCEQ by July 1 of each year a copy of the annual CCR and certification that the CCR has been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with compliance monitoring data, in violation of 30 TEX. ADMIN. CODE §§ 290.271(b) and 290.274(a) and (c).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to provide public notification and submit a copy of the public notification to the Executive Director regarding the failure to submit DLQORs, in violation of 30 TEX. ADMIN. CODE § 290.122(c)(2)(A) and (f).
6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of One Thousand Two Hundred Two Dollars (\$1,202) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the One Thousand Two Hundred Two Dollar (\$1,202) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount One Thousand Two Hundred Two Dollars (\$1,202) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Follett, Docket No. 2015-0025-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Begin complying with applicable coliform monitoring requirements by collecting increased distribution coliform samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six consecutive months of compliance monitoring and reporting;
 - ii. Implement improvements to the Facility's process procedures, guidance, training, and/or oversight to ensure that all future lead and copper samples are collected, analyzed by a TCEQ approved laboratory, and the results reported to the Executive Director within ten days following the end of each monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117;
 - iii. Mail or directly deliver one copy of the CCR prepared using the compliance monitoring data for the year 2014 or the current year to each bill paying customer and make good faith effort to deliver the CCR to non-bill paying customers, in accordance with 30 TEX. ADMIN. CODE § 290.274; and
 - iv. Implement procedures to ensure that all necessary public notifications are provided in a timely manner to persons served by the Facility and a copy of the public notification is submitted to the Executive Director, including but not limited to providing public notification regarding the failure to submit DLQORs, in accordance with 30 TEX. ADMIN. CODE § 290.122.
 - b. Within 45 days after the effective date of this Agreed Order:
 - i. Submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a.ii. through 2.a.iv.;
 - ii. Submit to the Commission a copy of the CCRs provided to customers of the Facility and the certification that the CCRs have been distributed to the customers of the Facility and that the information in the CCR is correct and consistent with the compliance monitoring data, in accordance with 30 TEX. ADMIN. CODE § 290.274. The copy of the CCR and certification shall be mailed to:

Public Drinking Water Section
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.b.ii.;
- d. Within 90 days after the effective date of this Agreed Order, begin complying with applicable lead and copper monitoring requirements by collecting the required number of lead and copper samples and reporting the results to the Executive Director within ten days of the month following the end of the monitoring period, in accordance with 30 TEX. ADMIN. CODE § 290.117. This provision will be satisfied upon one compliant monitoring period;
- e. Within 225 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.f. below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a.i; and
- f. Within 470 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.d. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section Manager
Water Supply Division, MC 155
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any

other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

6/24/15
Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of the City of Follett. I am authorized to agree to the attached Agreed Order on behalf of the City of Follett, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, the City of Follett waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.


I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

3-26-2015
Date


Name (Printed or typed)
Authorized Representative of
City of Follett

City Mgr.
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.